THE HONOURABLE SRI JUSTICE V. ESWARAIAH

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WRIT PETITION No.72 of 2006

Date: 03.01.2006

Between:

Sri Venkateswara Rice & Floor Mill, rep. by its proprietor, Sri K. Vijaya Bhashar Reddy

… Petitioner

a n d

1. The Chief Engineer, Electricity, O & M, A.P.Southern Distribution Company Ltd., Vijayawada, Krishna and others.

… Respondents

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ORDER:

The petitioner is a consumer of electricity connection bearing No.10 in respect of his Rice & Floor Mill situated at Nagireddypalem village, Bellamkonda Mandal, Kurnool District. The provisional assessment notice dated 24-04-2005 was issued to the petitioner based on the inspection report and the pilferage of electricity was estimated at Rs.3,81,450/- and the service connection was also disconnected. For

restoration of the service connection, petitioner was directed to pay half of the same.

2. Aggrieved by the provisional assessment notice, petitioner filed W.P.No.11120 of 2005, which was allowed on 10-05-2005 with costs setting aside the disconnection of power supply to the petitioner unit pursuant to the provisional assessment notice. Thereafter, a notice dated 05-05-2005 was issued by the 5th respondent to the petitioner estimating the value of energy pilfered/misused at Rs.3,81,450/- and the said notice was served on 21-07-2005. But, no explanation was submitted by the petitioner within thirty days from the date of receipt of the said notice. Therefore, the impugned final assessment order dated

29-08-2005 has been passed by the 5th respondent.

3. It is stated that as against the said order, the petitioner filed an appeal under Section 127 of the Electricity Act, 2003 (the Act) before the Chief Engineer/1st respondent. It is also stated that the petitioner filed an application before 5th respondent for grant of stay on the impugned order pending appeal. It is stated that his application has not been entertained on the ground that under Section 127(2) of the Act the appeal cannot be entertained unless an amount equal to one-third of the assessed amount is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit is to be enclosed along with the appeal.

4. Therefore, I am of the opinion that the petitioner cannot have any grievance in not entertaining the appeal, as he has not paid the one-third amount as required.

5. Having regard to that fact, this petition is disposed of with a direction to the 5th respondent to consider the application of the petitioner for grant of stay pending appeal on condition of the petitioner filing proof of payment of the one-third amount within two weeks from day. No costs.

03-01-2006

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